

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DANIEL ISRAEL,

Petitioner,

– against –

STATE OF NEW YORK,

Respondent.

ORDER

16 Civ. 8541 (ER) (BCM)

RAMOS, D.J.:

On October 11, 2016, Daniel Israel, *pro se*, brought a petition for a writ of habeas corpus under 28 U.S.C. § 2254. Doc 1. On June 23, 2017, the State of New York opposed. Doc. 19. On August 4, 2017, the Court granted Israel’s request to stay his petition pending resolution of his postconviction motion under C.P.L. § 440.10 filed in state court to exhaust his state remedies. Doc. 25. Following denial of his state motion, the stay was lifted on January 14, 2019. Doc. 32.

On February 4, 2020, Magistrate Judge Barbara Moses issued a Report and Recommendation (“R&R”) recommending that Israel’s petition be denied in its entirety. Doc. 49. The R&R notified the parties that they had fourteen days to file objections and that failure to do so “will result in a waiver of objections and will preclude appellate review.” *Id.* at 44. Well over fourteen days have passed without any objection to the R&R.

I. Standard

A district court reviewing a magistrate judge’s report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Parties may raise specific written objections to the report and recommendation “[w]ithin fourteen days after being served with a copy.” *Id.*; *see also* Fed. R. Civ. P. 72(b)(2). “3 days are added” to that period when “service is made under Rule 5(b)(2)(C)

(mail), (D) (leaving with the clerk), or (F) (other means consented to).” Fed. R. Civ. P. 6(a), (d).

A district court reviews *de novo* those portions of the report and recommendation to which timely and specific objections are made. 28 U.S.C. § 636(b)(1)(C). The district court may adopt those parts of the report and recommendation to which no party has timely objected, provided no clear error is apparent from the face of the record. *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008).

II. Discussion

The Court has reviewed Magistrate Judge Moses’ R&R and finds no clear error. The Court therefore adopts Magistrate Judge Moses’ recommendations in their entirety. Israel’s petition is DENIED. The Clerk of Court is respectfully directed to terminate the petition, Doc. 1, and to close the case.

It is SO ORDERED.

Dated: July 6, 2020
New York, New York



EDGARDO RAMOS, U.S.D.J.